

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DUNCAN J. McNEIL III,) CASE NO. C05-1758-RSL
Plaintiff,)
v.)
UNITED STATES, et al.,) ORDER DENYING PLAINTIFF'S
Defendants.) APPLICATION TO PROCEED *IN
FORMA PAUPERIS*

Plaintiff Duncan J. McNeil, a prisoner incarcerated in Spokane County Jail, filed an application to proceed *in forma pauperis* (“IFP”) in a civil suit. (Dkt. 1.) Plaintiff has been deemed a “vexatious litigant” in the Eastern District of Washington, the United States Bankruptcy Court for the Central District of California, and Spokane County Superior Court. *See McNeil v. Spokane County Jail, et al.*, No. C04-371AAM (E.D. Wash.) (Dkt. 10.) The Eastern District of Washington also dismissed with prejudice more than three complaints filed by plaintiff upon finding them frivolous and malicious, and entered a “pre-filing review order” imposing conditions on any future complaints submitted by plaintiff to that court. (*Id.* at Dkts. 10 & 25.)

Pursuant to 28 U.S.C. § 1915(g), a prisoner who brings three or more civil actions which

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01 are dismissed as frivolous, malicious, or for failure to state a claim, will be precluded from bringing
02 any other civil action IFP unless the prisoner is under “imminent danger of serious physical injury.”
03 28 U.S.C. § 1915(g). Although plaintiff asserts that he presently faces such a danger, his
04 assertions are vague and conclusory. (Dkt. #1 at 2). Accordingly, plaintiff fails to overcome the
05 bar imposed by 28 U.S.C. § 1915(g). Therefore, he may not proceed in this action without paying
06 the full filing fee.

It is therefore ORDERED:

- (1) Plaintiff's application for leave to proceed IFP (Dkt. #1) is DENIED.
- (2) This action shall proceed only if plaintiff pays the applicable filing fee within **thirty (30)** days after entry of this Order.
- (3) The Clerk shall furnish copies of this Order to plaintiff and to the Hon. Mary Alice Theiler.

DATED this 3rd day of November, 2005.

Robert S. Lasnik
Robert S. Lasnik
United States District Judge

18 | Recommended for Entry
this 1st day of November, 2005.

19 s/ Mary Alice Theiler
United States Magistrate Judge

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